

## 2005 DRAFTING REQUEST

### Senate Substitute Amendment (SSA-SB182)

Received: 08/09/2005

Received By: pkahler

Wanted: Soon

Identical to LRB:

For: Jeffrey Plale (608) 266-7505

By/Representing: himself

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Dom. Rel. - child support

Extra Copies:

Submit via email: YES

Requester's email: Sen.Plale@legis.state.wi.us

Carbon copy (CC:) to:

---

#### Pre Topic:

No specific pre topic given

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#### Topic:

Modifications to bill revising child support for person on active duty

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#### Instructions:

See Attached

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 08/11/2005	lkunkel 08/12/2005		_____			
/P1			rschluet 08/15/2005	_____	sbasford 08/15/2005		
/P2	pkahler 09/14/2005	lkunkel 09/16/2005	pgreensl 09/16/2005	_____	lemery 09/16/2005		
/1	pkahler	lkunkel	rschluet	_____	mbarman	mbarman	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
09/19/2005	09/19/2005	09/20/2005	_____		09/20/2005	09/20/2005	

FE Sent For:

&lt;END&gt;

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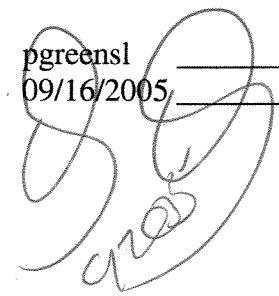
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/P1			rschluet 08/15/2005	9/16 ps/13	sbasford 08/15/2005		
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FE Sent For:

9/14  
ps  
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/?	pkahler						

FE Sent For:

  
<END>

108 South

2:30

8-9-05

① p4, l 18

military pay and all other income  
(during active duty)

"my pay" = military pay

DFAS Form 702

formula for what military income  
should be considered?

military pay that is income =

\* income while on active duty

\* Dept promulgate rules defining "income while on active  
duty"  
emergency rules for this  
no

② appearance issue:

and (elect.) my pay

procedure:

90 days after get back

file motion <sup>(+ serve)</sup> at any time (before, during, or after)  
 on temp order w/ affidavit of what income was before + what it will be  
 send in my pay form ~~along w/ motion~~  
 +  $\rightarrow$  all other income is the same

at order TO as soon as my pay form is sent,  
 assume all other  
 income is the same  
 unless person files affidavit  
 that other income is different

file  
 motion w/ all other income - TO  
 revision order ~~is~~ issued when my pay form comes  
 (so about a month later)  
 (revision is retroactive to date motion filed)

at release,  
 either party may request to revise bond

~~If someone does not~~  
 90 day suspension from release date for  
 enforcement on arraignment  
 while on active duty + 90 days after  
 (how do we

require person to file a copy of notice of  
 discharge notice from active duty  
 DD 214

chief support agency gets notice of request for  
 revision

no emergency rules to define income <sup>military</sup>



suspend enforcement for 6 months (from  
deployment?)

(for up to 10 days from discharge)

unless payer sends evidence to child

support agency - for 6 month  
extension

new substitute amdt

Save

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View other LESSs 0503

Go

## DEFENSE FINANCE AND ACCOUNTING SERVICE MILITARY LEAVE AND EARNINGS STATEMENT

ID	NAME (Last, First, MI)	SOC SEC NO	GRADE	PAY DATE	YRS SVC	ETS	BRANCH	ADSN/DSSN	PERIOD COVERED																																
ENTITLEMENTS		DEDUCTIONS		ALLOTMENTS		SUMMARY																																			
Type	Amount	Type	Amount	Type	Amount	Amount Paid																																			
A BASE PAY	3458.70	FEDERAL TAXES	197.95	TRICARE DENTAL	23.31	Total Em 5588.68																																			
B BAS	287.10	FICA-SOC SECURITY	214.44			Total Ded 5588.37																																			
C BAH	1434.40	FICA-MEDICARE	50.15			Total All 23.31																																			
D CLOTHING	426.40	SGLI FOR 250,000	16.25			Net Pay 5000.00																																			
E		AFPM	50.00			Cr Paid 5000.00																																			
F		CURR PAY RELEASED	1489.70			HEOM Pay 5000.00																																			
G		STATUS DET	1541.82																																						
H		CURRENT SPT/COMM	1489.70																																						
I		FAMILY SGLI	10.00																																						
J		PRIOR SPT/COMM	1489.70																																						
K		WD-MONTH-PAY	1644.40																																						
L																																									
M																																									
N																																									
O																																									
TOTAL		5588.68		5588.37		23.31																																			
<table border="1"> <thead> <tr> <th>LEAVE</th> <th>BP Bal</th> <th>End</th> <th>Used</th> <th>C Bal</th> <th>ETS Bal</th> <th>Lv Lost</th> <th>Lv Paid</th> <th>Use/Lose</th> <th>FED TAXES</th> <th>Wage Period</th> <th>Wage YTD</th> <th>MS</th> <th>Ex</th> <th>Add Tax</th> <th>Tax YTD</th> </tr> </thead> <tbody> <tr> <td></td> <td>10.0</td> <td>8.0</td> <td>14</td> <td>1.5</td> <td>14.0</td> <td>0</td> <td>50.0</td> <td>0</td> <td></td> <td>3458.70</td> <td>10378.10</td> <td>88</td> <td>94</td> <td>88</td> <td>983.85</td> </tr> </tbody> </table>										LEAVE	BP Bal	End	Used	C Bal	ETS Bal	Lv Lost	Lv Paid	Use/Lose	FED TAXES	Wage Period	Wage YTD	MS	Ex	Add Tax	Tax YTD		10.0	8.0	14	1.5	14.0	0	50.0	0		3458.70	10378.10	88	94	88	983.85
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	3458.70	10378.10	643.32	10378.10	150.45		SD	00	00	88	95	00																													
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00	00	00																																							

REMARKS: YTD ENTITLE 13040.44

YTD DEDUCT 1467.67

W2s and W2cs are available at  
 -UPDATE PERSONAL E-MAIL ADDRESSES IN MYPAY.  
 YOU LOCAL FINANCE OFFICE.  
[HTTP://WWW.CONSUMER.GOV/IDTHFT](http://www.consumer.gov/idtheft)  
 DOO CIVILIAN JOBS. GO TO [WWW.GO-DEFENSE.COM](http://WWW.GO-DEFENSE.COM).  
 DUE FOR FREE TAX HELP AND E-FILE. SEE  
 SUPPORTING LEGAL ASSISTANCE OFFICE.  
 IS FASTER AND SAFER THAN A CHECK AND WITH  
 HALF THE TIME.  
 OPPORTUNITIES FOR RETIRING/RETIRED ACTIVE  
[WWW.AFOATS.AF.MIL/AFJROTC/DEFAULT.HTM](http://WWW.AFOATS.AF.MIL/AFJROTC/DEFAULT.HTM)  
 STATUS DETERMIN HLDPAY BAL \$1941.92  
 CURRENT MONTH LEAVE BALANCE ADJUSTED.  
 START BAH 050228(061)  
 HELD PAY. SUPPORT/COMM DEBT 050228(069)  
 NONCHARGEABLE LEAVE 050226-050317(076)  
 CHARGE LEAVE 050318(077)  
 BAH BASED ON WDEP. ZIP 29404  
 BANK BANK OF AMERICA

[HTTPS://MYPAY.DFAS.MIL](https://mypay.dfas.mil)  
 NO PIN? GO TO [HTTPS://MYPAY.DFAS.MIL](https://mypay.dfas.mil) OR  
 IDENTITY THEFT INFORMATION AVAILABLE AT  
 -CONTINUE TO SERVE YOUR COUNTRY. FOR INFO ON  
 -YOUR 2004 FED AND STATE INCOME TAXES ARE  
 YOUR INSTALLATION TAX ASSISTANCE CTR OR  
 -USING DIRECT DEPOSIT FOR INCOME TAX REFUNDS  
 IRS E-FILE. YOU COULD GET YOUR REFUND IN  
 -AF JUNIOR ROTC HAS 143 EMPLOYMENT  
 DUTY OFFICERS AND NCOs. VISIT  
 (SEE "INSTRUCTORS")  
 USED LEAVE BALANCE ADJUSTED.  
 REPORT PRIOR SPT/COMM 050301 (080)  
 START BAH 050228(061)  
 START HELD PAY STATUS 050301(080)  
 HELD PAY. SUPPORT/COMM DEBT 050318(077)  
 CLOTHING MAINTENANCE 050401-050331(083)  
 SUPPORT/COMM DEBT HELD PAY BALANCE \$1489.70

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ID	NAME (Last, First, MI)	SOC. SEC. NO.	GRADE	PAY DATE	YRS SVC	ETS	BRANCH	ADSN/DSSN	PERIOD COVERED
									1-30 JUN 04
ENTITLEMENTS		DEDUCTIONS		ALLOTMENTS		SUMMARY			
Type	Amount	Type	Amount	Type	Amount	+Amt Fwd .00			
A BASE PAY	3295.50	FEDERAL TAXES	140.98	TRICARE DENTAL	22.66	+Tot Ent 3549.96			
B BAS	254.46	FICA-SOC SECURITY	204.32			+Tot Ded 2618.82			
C		FICA-MEDICARE	47.78			+Tot Allt 22.66			
D		SGLI FOR 250.000	16.25			-Net Amt 908.48			
E		AFRIH	.50			-Cr Fwd .00			
F		CURR PAY RELEASED	1300.00			-EOM Pay 908.48			
G		CURRENT SPT/COMM	1300.00						
H		PRIOR SPT/COMM	1300.00						
I		MID-MONTH-PAY	908.99						
J									
K									
L									
M									
N									
O									
TOTAL		3549.96		2618.82		22.66			
LEAVE		BF Bal	Emd	Used	Cr Bal	ETS Bal	Lv Lost	Lv Paid	Use/Lose
		58.5	22.5	29	52.0	69.5	.0	50.0	.0
FICA		Wage Period	Soc Wage YTD	Soc Tax YTD	Med Wage YTD	Med Tax YTD	STATE TAXES		
		3295.50	19773.00	1225.92	19773.00	286.68			
PAY DATA		BAQ Type	BAQ Depr	VHA Zip	Rent Amt	Share	Stat	JFTR	Depns
				00000	.00	0			0
THRIFT SAVINGS PLAN (TSP)		Base Pay Rate	Base Pay Current	Spec Pay Rate	Spec Pay Current	Inc Pay Rate	Inc Pay Current	Bonus Pay Rate	Bonus Pay Current
		0	.00	0	.00	0	.00	0	.00
		TSP YTD Deductions			Deferred		Exempt		
		.00			.00		.00		

## REMARKS:

YTD ENTITLE 26544.09

YTD DEDUCT 2910.47

-GET YOUR LES ONLINE AT  
 -WATCH THE NEW PENTAGON CHANNEL AT  
 -MOVING? LOG ON TO THE AAFES.COM MILITARY  
 THE U.S. TO COMPARE PRICES/SERVICES AND SAVE  
 AND MORE.  
 ENSURE SOMEONE KNOWS YOUR PLANS IN CASE OF  
 -FREE CBT COURSES IN INFO TECHNOLOGY,  
 CBT SYSTEM AT [HTTP://USAF.SMARTFORCE.COM](http://usaf.smartforce.com).  
 GA AND OK. IN AUGUST:KS,MI,MO,TN,CO,CT,WY.  
 VISIT [WWW.FVAP.GOV](http://www.fvap.gov).  
 YOUR BANK ACCOUNTS AND ALLOTMENTS ARE  
 REPORT PRIOR SPT/COMM 040601 (153)  
 BANK BANK OF AMERICA

[HTTPS://MYPAY.DFAS.MIL](https://mypay.dfas.mil).  
[HTTP://PENTAGONCHANNEL.MIL](http://pentagonchannel.mil).  
 MOVING CENTER IF YOU'RE MOVING ANYWHERE IN  
 ON UTILITIES, PHONE SERVICE, INTERNET ACCESS  
 -WHETHER BOATING, CAMPING, OR TRAVELING,  
 TROUBLE...THINK AHEAD THIS SUMMER.  
 BUSINESS, AND MORE! REGISTER FOR THE USAF  
 -2004 PRESIDENTIAL/STATE PRIMARIES IN JULY:  
 AK,FL. SEE YOUR VOTING ASSISTANCE OFFICER OR  
 -MOVING?? DON'T LOSE A PAYCHECK...MAKE SURE  
 ACCURATE.  
 SUPPORT/COMM DEBT HELD PAY BALANCE \$1300.00

www.dfas.mil

2005

Date (time)  
needed

Tues.  
8-16

LRBs 0177 / PI

**SUBSTITUTE AMENDMENT  
[TO A BILL]**

PSK : mk :  
D-note

Use the appropriate components and routines developed for substitute amendments.

**(S) A SUBSTITUTE AMENDMENT**

TO 2005 (SB) AB 182 (LRB- / )

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; relating to: *revision of child or family support when payer is called to active military duty.*

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION #.



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRBs0141/1  
PJK:jld&cjs:jf

SENATE SUBSTITUTE AMENDMENT 1,  
TO 2005 SENATE BILL 182

June 15, 2005 - Offered by Senator PLALE.

1 AN ACT *to amend* 767.263 (1), 767.265 (1), 767.303 (1), 767.33 (5) (a), 767.51 (6)  
2 and 808.075 (4) (d) 4.; and *to create* 767.321 of the statutes; **relating to:**  
3 temporary revision of child or family support when payer is on active military  
4 duty.

*Analysis by the Legislative Reference Bureau*

Under current law, a person who is ordered by a court to pay child or family support may have the amount of support revised if there has been a substantial change in circumstances. A substantial change in circumstances includes such events as a change in the payer's earning capacity or a change in the needs of the child. Certain events, such as the expiration of 33 months since the support order was entered or last revised, constitute rebuttable presumptions that there has been a substantial change in circumstances. Even if the court finds that there has been a substantial change in circumstances, the court is not required to revise the support amount. If the court does revise support, however, it must use the percentage standard for setting the amount or, if the court determines that using the percentage standard would be unfair to the child or either of the parties, the court may modify the amount that would result from using the percentage standard on the basis of factors set out in the statutes. (The percentage standard is a percentage of the payer's gross income. The percentage varies with the number of children for which the support is paid.)

→ This is a preliminary draft. An analysis will be provided in a later version.

This substitute amendment requires a court to revise the amount of child or family support that a payer is obligated to pay if the payer is a member of the national guard or of a reserve unit of the U.S. armed forces, is called into active duty in the U.S. armed forces, and files a motion for the revision. The revised amount of support must bear the same proportion to the amount the payer is currently obligated to pay as the payer's military pay bears to the payer's income while not on active duty. If the payer files a motion for revision within ten days after being ordered to active service, the court must hold a hearing within ten days after receiving the motion or before the payer begins to serve on active duty, whichever is sooner. The revision in that case applies to the period beginning on the date on which the payer begins serving on active duty and ending on the date on which the payer is discharged from active duty. If, however, the court is unable to schedule the hearing before the payer's active duty begins, or if the payer does not file a motion for revision before his or her active duty begins but does file a motion for revision within 180 days after he or she is discharged from active duty, the court must hold a hearing after the payer is discharged from active duty. The revision in that case applies prospectively for the same amount of time as the payer's period of active duty.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

✓  
1       **SECTION 1.** 767.263 (1) of the statutes is amended to read:

2       767.263 (1) Each order for child support, family support, or maintenance  
3       payments shall include an order that the payer and payee notify the county child  
4       support agency under s. 59.53 (5) of any change of address within 10 business days  
5       of such change. Each order for child support, family support, or maintenance  
6       payments shall also include an order that the payer notify the county child support  
7       agency under s. 59.53 (5) and the payee, within 10 business days, of any change of  
8       employer and of any substantial change in the amount of his or her income, including  
9       receipt of bonus compensation, such that his or her ability to pay child support,  
10      family support, or maintenance is affected. The order shall also include a statement  
11      that clarifies that notification of any substantial change in the amount of the payer's  
12      income will not result in a change of the order unless a revision of the order under

1 s. 767.32 <sup>✓</sup>or 767.321 or an annual adjustment of the child or family support amount  
2 under s. 767.33 is sought.

3 **SECTION 2.** 767.265 <sup>✓</sup>(1) of the statutes is amended to read:

4 767.265 (1) Each order for child support under this chapter, for maintenance  
5 payments under s. 767.23 or 767.26, for family support under this chapter, for costs  
6 ordered under s. 767.51 (3) or 767.62 (4), for support by a spouse under s. 767.02 (1)  
7 (f), or for maintenance payments under s. 767.02 (1) (g), each order for or obligation  
8 to pay the annual receiving and disbursing fee under s. 767.29 (1) (d), each order for  
9 a revision in a judgment or order with respect to child support, maintenance, or  
10 family support payments under s. 767.32, ~~each order for a temporary revision in a~~  
11 ~~judgment or order with respect to child or family support payments under s. 767.321,~~  
12 each stipulation approved by the court or a circuit court commissioner for child  
13 support under this chapter, and each order for child or spousal support entered under  
14 s. 948.22 (7) constitutes an assignment of all commissions, earnings, salaries, wages,  
15 pension benefits, benefits under ch. 102 or 108, lottery prizes that are payable in  
16 installments, and other money due or to be due in the future to the department or  
17 its designee. The assignment shall be for an amount sufficient to ensure payment  
18 under the order, obligation, or stipulation and to pay any arrearages due at a periodic  
19 rate not to exceed 50% of the amount of support due under the order, obligation, or  
20 stipulation so long as the addition of the amount toward arrearages does not leave  
21 the party at an income below the poverty line established under 42 USC 9902 (2).

22 **SECTION 3.** 767.303 <sup>✓</sup>(1) of the statutes is amended to read:

23 767.303 (1) If a person fails to pay a payment ordered for support under s.  
24 767.077, support under s. 767.08, child support or family support under s. 767.23,  
25 child support under s. 767.25, family support under s. 767.261, revised child or

or 767.321

family support under s. 767.32 or 767.321, child support under s. 767.458 (3), child support under s. 767.477, child support under s. 767.51, child support under s. 767.62 (4), child support under ch. 769, or child support under s. 948.22 (7), the payment is 90 or more days past due, and the court finds that the person has the ability to pay the amount ordered, the court may suspend the person's operating privilege, as defined in s. 340.01 (40), until the person pays all arrearages in full or makes payment arrangements that are satisfactory to the court, except that the suspension period may not exceed 2 years. If otherwise eligible, the person is eligible for an occupational license under s. 343.10 at any time.

SECTION 4. 767.321 of the statutes is created to read:

**767.321 Temporary revision of child or family support while payer is on active military duty.** (1) REQUIREMENT; AMOUNT OF REVISION. Notwithstanding s. 767.32, if a member of the national guard or of a reserve unit of the U.S. armed forces is obligated to pay child or family support and is called into active duty in the U.S. armed forces, upon a motion <sup>and supporting income information</sup> filed as provided in this section, the court or circuit court commissioner shall revise the child or family support to an amount that bears the same proportion to the child or family support amount that the payer is obligated to pay when the payer is called into active duty as the payer's ~~military pay~~ <sup>income while on active duty</sup> bears to the payer's income while not on active duty.

(2) MOTION AND HEARING; TIMING OF REVISION. (a) *Before active duty.* The payer may file a motion for a temporary revision in child or family support <sup>at an</sup> ~~within~~ 10 <sup>time</sup> ~~business days~~ after being ordered to active service in the U.S. armed forces and shall serve a copy of the motion on the payee and the county child support agency under s. 59.53 (5). The motion shall include the date on which the payer will begin to serve on active duty and the date on which the payer will be discharged from active duty,



1 if known. The court or circuit court commissioner shall schedule a hearing to be held  
2 within 10 business days after the motion is filed, or before the payer begins to serve  
3 on active duty, whichever is sooner. Unless the court or circuit court commissioner  
4 is unable to hold a hearing before the payer begins to serve on active duty, the  
5 revision in child or family support under sub. (1) shall apply for the period beginning  
6 on the date on which the payer begins to serve on active duty and ending on the date  
7 on which the payer is discharged from active duty.

8 (b) *After discharge from active duty.* 1. If the payer does not file a motion within  
9 the time required under par. (a), the payer may file a motion for a temporary revision  
10 in child or family support within 180 days after he or she is discharged from active  
11 duty in the U.S. armed forces and shall serve a copy of the motion on the payee and  
12 the county child support agency under s. 59.53 (5).

13 2. If the payer files a motion within the time required under par. (a), but the  
14 court or circuit court commissioner is unable to hold a hearing before the payer  
15 begins to serve on active duty, the court or circuit court commissioner shall hold a  
16 hearing as soon as practicable after the payer is discharged from active duty.

17 3. If the payer files a motion as provided under subd. 1., or the court or circuit  
18 court commissioner holds a hearing as provided under subd. 2., the revision in child  
19 or family support under sub. (1) shall apply prospectively for a period that is the same  
20 length as the period during which the payer served on active duty.

21 (3) **APPLICABILITY OF REQUIREMENT.** The court or circuit court commissioner is  
22 not required to revise child or family support as provided under sub. (1) if a party files  
23 a motion for revision more than 180 days after the payer is discharged from active  
24 duty in the U.S. armed forces.

25 **SECTION 5.** 767.33 (5) (a) of the statutes is amended to read:

Insert 5-24

767.33 (5) (a) Nothing in this section affects a party's right to file at any time a motion, petition, or order to show cause under s. 767.32 for revision of a judgment or order with respect to an amount of child or family support ~~or to file a motion under s. 767.321 for temporary revision of a judgment or order with respect to child or family support.~~

**SECTION 6.** 767.51 (6) of the statutes is amended to read:

767.51 (6) Sections 767.24, 767.245, 767.263, 767.265, 767.267, 767.29, 767.293, 767.30, 767.305, 767.31, 767.32, 767.321, and 767.325, where applicable, shall apply to a judgment or order under this section.

**SECTION 7.** 808.075 (4) (d) 4. of the statutes is amended to read:

808.075 (4) (d) 4. Revision of judgment or order for child support, maintenance payments, or family support payments under s. 767.32, ~~767.321~~, or 767.51.

## SECTION 8. Initial applicability.

(1) The treatment of section 767.263 (1) of the statutes first applies to orders for child support, family support, or maintenance that are entered on the effective date of this subsection.

**(END)**

or a motion under 40767.321



**2005-2006 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0177/ins  
PJK:.....

INSERT 5-24

log 3

1           (2) PROCEDURE. (a) *Filing of motion and income information.* At any time after  
2 being ordered to active service in the U.S. armed forces, the payer may file, and serve  
3 copies on the payee and the county child support agency under s. 59.53(5), all of the  
4 following: ✓

5           1. A motion to revise the amount of child or family support that the payer is  
6 obligated to pay. ✓

7           2. An affidavit signed by the payer stating all amounts and sources of the  
8 payer's income while not on active duty and all amounts and sources of the payer's  
9 income, other than military pay, while the payer is on active duty. ✓

10          3. If available, a copy of the payer's defense finance and accounting service form  
11 702, showing the payer's military pay. ✓

12          (b) *Separate filing of military pay form.* If a copy of the form specified in par.  
13 (a) 3. is not available when the motion is filed under par. (a), as soon as practicable  
14 after filing the motion the payer shall file, and send to the payee and the county child  
15 support agency under s. 59.53(5), a copy of his or her defense finance and accounting  
16 service form 702, showing his or her military pay. The copy of form 702 may be sent  
17 to the court for filing by facsimile transmission or electronic mail. ✓

18          (c) *Issuance of order.* After all of the income information required under pars. ✓  
19 (a) and (b) has been received and filed, the court or circuit court commissioner shall,  
20 without a hearing, issue an order revising the child or family support that the payer  
21 is obligated to pay to the amount specified in sub. (1). The revision shall be effective  
22 as of the date on which the payee received notice of the motion. ✓

↓

Ins. 5-24 contd

283

1 (3) MOTION AFTER DISCHARGE. After the payer is discharged from active duty,  
2 any party may file a petition, motion, or order to show cause under s. 767.32 to revise  
3 the amount of child or family support that the payer is obligated to pay while not on  
4 active duty. ✓

5 (4) PROHIBITION ON SUPPORT ENFORCEMENT. (a) *Six-month suspension*. ✓ Except  
6 as provided in par. (b), ✓ if the court or court commissioner issues an order under sub.  
7 (2) (c) ✓ revising the amount of child or family support that a payer is obligated to pay,  
8 the department and a county child support agency under s. 59.53 (5) are prohibited  
9 from conducting any child or family support enforcement activities with respect to  
10 the payer for a period beginning on the date on which the order is issued under sub.  
11 (2) (c) ✓ and ending on a date that is 6 months after the date on which the order was  
12 issued. ✓

13 (b) *Extension of suspension*. If a payer for whom an order was issued under sub.  
14 (2) (c) ✓ provides to the county child support agency in the county in which the order  
15 was issued satisfactory evidence that, on the date on which support enforcement  
16 activities may be commenced, ✓ *under par (a)* ✓ the payer is on active duty or has been discharged from  
17 active duty for less than 90 days, the county child support agency shall extend the  
18 time during which the department and a county child support agency under s. 59.53  
19 (5) are prohibited from conducting support enforcement activities with respect to the  
20 payer. The time under par. (a) may be extended for a payer any number of times, as  
21 appropriate, and for up to 6 months each time. ✓

22 (c) *Limit on suspension*. Notwithstanding pars. (a) and (b), ✓ in no event may the  
23 department or a county child support agency under s. 59.53 (5) be prohibited from  
24 conducting support enforcement activities with respect to a payer for whom an order

↓

✓ Ins 5-24 cont'd 383

- 1 was issued under sub. (2) (c) for more than 90 days after the payer is discharged from
- 2 active duty in the U.S armed forces. ✓

(END OF INSERT 5-24)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs01777dn

PJK:.....

(date)

tnk

✓  
Senator Plale:

This is the first version of the new substitute amendment. ✓ I made a number of assumptions to flesh out the details, so review the language closely. I have the following specific questions and comments: ✓

1. I wasn't sure if I was to include a requirement that the payer file a copy of his or her discharge notice with the court. ✓ We has discussed this but I thought that DWD (Connie Chesnik) ✓ was satisfied with a six-month suspension of its enforcement activities, placing the onus ✓ on the payer to notify the child support agency if they were still deployed at the end of six months. ✓ I wasn't sure when the six-month period was to begin. ✓ I drafted it to begin on the date of the order, because I thought DWD would not necessarily know of any other dates, such as the date active duty began. ✓

Also related to this issue, how do you want the six-month time period and the "90 days after discharge" to work together? Is proposed s. 767.321 (4) ✓ drafted as you intended? ✓

2. The draft no longer refers to the revision as "temporary" because, under the current concept, the revision continues until someone petitions the court for another revision, just like any other revision. ✓ In other words, the order no longer provides that the revised amount of support applies only until the payer is discharged from active duty. ✓

3. I wasn't sure if the military pay shown on a single DFAS form 702 was representative of the amount that would be shown on every DFAS form 702 (for the same payer). ✓ As drafted, the payer must submit only one example to show his or her military pay. ✓

4. The revised amount of support is effective as of the date the payee receives notice of the motion. ✓ What if active duty does not begin for a number of months? Is it possible for a person to receive such advanced notice of deployment? ✓

5. Isn't it a problem that a payer called to active duty may file a motion for revision at any time, even months or years after discharge? As drafted, the court is *required* to revise support if the payer is called to active duty and files a motion for revision, so if a motion is filed long after discharge the revised support amount would not reflect the payer's current income. ✓ Since there is no specific time limit for how long the revision applies, as there is in SSA 1, the revised amount would continue indefinitely until the payee (presumably) petitioned the court to revise support again. ✓

6. As drafted, either the payee or the payer may petition the court for a revision of support after the payer is discharged from active duty. ✓ Only the payer, however, may move to have support revised if he or she is called to active duty. ✓ I assume the payer would not do so if his or her income would be higher while on active duty. ✓ Do you want the payee to be able to move the court for a revision, also, if the payer is called to active duty? ✓

Pamela J. Kahler

Senior Legislative Attorney

Phone: (608) 266-2682

E-mail: pam.kahler@legis.state.wi.us

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0177/P1dn  
PJK:lmk:rs

August 12, 2005

Senator Plale:

This is the first version of the new substitute amendment. I made a number of assumptions to flesh out the details, so review the language closely. I have the following specific questions and comments:

1. I wasn't sure if I was to include a requirement that the payer file a copy of his or her discharge notice with the court. We has discussed this but I thought that DWD (Connie Chesnik) was satisfied with a six-month suspension of its enforcement activities, placing the onus on the payer to notify the child support agency if they were still deployed at the end of six months. I wasn't sure when the six-month period was to begin. I drafted it to begin on the date of the order, because I thought DWD would not necessarily know of any other dates, such as the date active duty began.

Also related to this issue, how do you want the six-month time period and the "90 days after discharge" to work together? Is proposed s. 767.321 (4) drafted as you intended?

2. The draft no longer refers to the revision as "temporary" because, under the current concept, the revision continues until someone petitions the court for another revision, just like any other revision. In other words, the order no longer provides that the revised amount of support applies only until the payer is discharged from active duty.

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4. The revised amount of support is effective as of the date the payee receives notice of the motion. What if active duty does not begin for a number of months? Is it possible for a person to receive such advanced notice of deployment?

5. Isn't it a problem that a payer called to active duty may file a motion for revision at any time, even months or years after discharge? As drafted, the court is *required* to revise support if the payer is called to active duty and files a motion for revision, so if a motion is filed long after discharge the revised support amount would not reflect the payer's current income. Since there is no specific time limit for how long the revision applies, as there is in SSA 1, the revised amount would continue indefinitely until the payee (presumably) petitioned the court to revise support again.



6. As drafted, either the payee or the payer may petition the court for a revision of support after the payer is discharged from active duty. Only the payer, however, may move to have support revised if he or she is called to active duty. I assume the payer would not do so if his or her income would be higher while on active duty. Do you want the payee to be able to move the court for a revision, also, if the payer is called to active duty?

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.state.wi.us](mailto:pam.kahler@legis.state.wi.us)

## Kahler, Pam

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**From:** Venskus, Katy  
**Sent:** Friday, September 09, 2005 1:13 PM  
**To:** Kahler, Pam  
**Subject:** SB 182

Hi Pam-

I've spoken to all the interested parties and we seem to have some consensus on the final version of this bill. Including language requiring a hearing.

Please draft language that would require a hearing after the initial motion is filed. The payer on active duty would be allowed to appear by phone or electronically if that's possible. The revision would then take effect as of the date the motion was filed or the date the payer began receiving military pay whichever is later. If appearance by phone or electronically is absolutely not possible the motion will be stayed until the individual can appear and the revision will still go back to the date of the motion or the first day of active duty. *what does that mean?*

As for 767.321(4) it looks fine to us, Connie raised one concern. Right now they do income withholding for almost all payers who owe child support. It's not an enforcement activity per se it's simply the DWD method of collecting support. Connie was hoping there was a way to draft the bill so that income withholding wouldn't be prohibited as an enforcement activity

The revision in support shouldn't start until the motion is filed or until the first day of an individual's active duty whichever is later. We don't want support reduced until the payers income is actually affected.

It was my understanding after the meeting that because any retroactive reduction would violate TANF rules filing a motion after service would be a moot point. Because the reduction can't start until the motion is filed or the first day of active duty whichever is later, anyone who filed months or years after discharge of service would not be able to receive retroactive relief, therefore I don't think we need to include that option.

As for whether or not a payee would be able to file for a modification if the payers income actually increased on active duty - the answer is yes, nothing in the bill should preclude that. It's my understanding they have that option under current law; to file for a modification if there is a substantial change in circumstances. *but so does service person - idea is*

Finally, there should be a requirement that the payer notify DWD of their date of discharge from active duty. *that procedure is*

Please feel free to call me with questions or you can speak to Connie as well.

Thanks,  
Katy

Katy Venskus  
Office of Senator Jeff Plale  
108 South, State Capitol  
PO Box 7882  
Madison, WI 53701  
608.266.7505

*afforded,  
I think*

## Kahler, Pam

---

**From:** Kahler, Pam  
**Sent:** Monday, September 12, 2005 2:09 PM  
**To:** Venskus, Katy  
**Subject:** Child support draft (active duty)

Hi, Katy:

Sorry you're not feeling well. I hope my questions/comments with respect to the new instructions and the responses to my d-notes don't make matters worse!

1) First, if the hearing can be held relatively soon after the motion is filed, there is less of a problem, but if the hearing cannot be held until quite a while after the motion is filed - even after the service person is discharged - what does it mean, practically, for the order to "go back to the date the motion was filed or the first day of active duty, whichever is later"? Will the payee have to give back child support already received? Will arrears, if any, be expunged? Will the amount of support that the payee receives *prospectively* be reduced to make up for all that time that s/he was receiving too much? Isn't that just as "retroactive" as if a service person first files a motion long after he or she is discharged?

This problem presents the same problem as my d-note question about how long someone has to file a motion. As drafted currently, the court *must* order the reduction (assuming military pay is less), and there is no time limit for the duration of the reduced amount. For the reduction to end, someone must actually file a motion in court again. If no one does, the reduction is indefinite. For that reason, a person could file a motion long after discharge. The court would be required to reduce support based on how much military pay had been reduced from regular income. Going back to the date the motion was filed or the first day of active duty, whichever is later, doesn't seem to mean anything. If the person files a motion years later, the filing is obviously later than the first day of active duty, but what does it mean for the reduction to go back to the day the motion is filed? By "goes back to" do you mean the court looks at the person's income at that time, either on the day the motion is filed or on the first day of active duty?

It just seems like we need to restrict the filing of the motion to some time limit, or to require the court to use the person's income at filing or the first day of active duty, whichever is later. (Will the person's military pay vary? In other words, if the motion is filed later than the first day of active duty, but while the person is on active duty, could the person's pay be different on those two days?)

The fact that we have no restrictions on when the motion may be filed or how long the reduction in child support lasts are the biggest problems that I see.

2) It is true that a payee may under current law (s. 767.32) file a motion for a change in support if there is a substantial change in circumstances. But so can a payer, e.g., a service person called to active duty. I thought this draft was meant to provide an expedited procedure for getting support changed if someone was called to active duty. If the expedited procedure is only available to the payer, however, the payee is disadvantaged because, by the time the motion may be heard, the payer's income will be less (if the military pay was greater).

Pam

## Kahler, Pam

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**From:** Venskus, Katy  
**Sent:** Wednesday, September 14, 2005 9:59 AM  
**To:** Kahler, Pam  
**Subject:** RE: Ative duty child support draft

That works for me - thanks for your patience.

---

**From:** Kahler, Pam  
**Sent:** Monday, September 12, 2005 3:20 PM  
**To:** Venskus, Katy  
**Subject:** Ative duty child support draft

Katy:

Now that I got all that off my chest (my previous email) I think the draft would work (from my perspective) if the filing of the motion were limited to before or during active duty (not after discharge). Then we wouldn't have any question about the retroactive problem and it would be clear what is meant by making the reduction effective from the later of the filing of the motion or the first day of active duty. I think it would also be good to provide that the only circumstance in which the court could issue an order after discharge is if the hearing cannot be held until after discharge. Hopefully that would be very few cases. The problem of how the court deals with child support that was paid before the hearing when the hearing cannot be held until much later would be something each court would have to address under the particular circumstances, I guess. How does that all sound?

(What you want to do, if anything, about giving the payee the right to file a motion under the new section is a policy choice on your part.)

Pam